

KATHLEEN A. LEAVITT
CHAPTER 13 BANKRUPTCY TRUSTEE
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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

In re:)	BK-22-11027-ABL
)	Chapter 13
LILLIAN JO SONDGEROTH DONOHUE,)	
)	DATE: May 1, 2023
Debtor.)	TIME: 9:30 a.m.

**STIPULATION RESOLVING DONOHUE'S DISMISSAL OF HER CHAPTER 13 CASE AND
MOTION TO RETURN TO DONOHUE ALL FUNDS THE CHAPTER 13 TRUSTEE IS
HOLDING**

COMES NOW the Chapter 13 Bankruptcy Trustee, Kathleen A. Leavitt (hereinafter "Trustee"), by and through her attorney of record, Danielle N. Gueck-Townsend, Esq., and Debtor, Lillian Jo Sondgeroth Donohue, by and through attorney of record, Christopher P. Burke, Esq., (hereinafter collectively referred to as "The Parties") who hereby **STIPULATE AND AGREE** to the following terms.

Recitals

1. On March 24, 2022 Debtor filed a voluntary Chapter 13 petition seeking bankruptcy relief under Title 11 in the United States Bankruptcy Court, District of Nevada (hereinafter "Bankruptcy Case").
2. On April 7, 2022, Debtor filed Chapter 13 Plan #1 (*see* Docket No. 15). As required by the Plan, Trustee received \$2,000 on April 26, 2022 and \$2,000 on June 1, 2022.
3. On June 6, 2022, Debtor filed an adversary proceeding against creditor, The Wardlow Survivor's Trust, seeking to quiet title to a piece of commercial real property by asserting,

1 among other things, that the Deed of Trust had been satisfied, discharged and released under
2 N.R.S. §106.240 (Adversary Case No. 22-01106. *see* Docket No. 1) (hereinafter "AP").

- 3
4 4. On July 2, 2022, the Court entered an order approving the sale of non-exempt real
5 property located at 2240 East Calvada Blvd., Pahrump, NV 89048 and required the net
6 proceeds to be turned over to the Trustee as a payment under the plan to be held in the
7 Bankruptcy Estate of Case No. 20-11027-ABL until further order of the Court (*see* Docket
8 No. 88). Trustee received net proceeds in the amount of \$508,045.75 on July 21, 2022.
- 9 5. On November 11, 2022, a Stipulation was filed resolving the amount of the damages due
10 and owing to Debtor from The Wardlow Survivor's Trust arising from the violation of the
11 automatic stay contempt proceeding (*see* Docket No. 124). Subsequently, on November 28,
12 2022, an Order was entered approving the Stipulation and requiring the Trustee to disburse
13 \$9,500 to Christopher P. Burke, Esq. and \$8,000 to the Debtor out of the payment under the
14 plan held by the Trustee and consequently reducing the claim of The Wardlow Survivor's
15 Trust in this case (*see* Docket No. 125).
- 16
17 6. On December 22, 2022, an Order was entered sustaining the Trustee's objection to the
18 Debtor's claim of exemptions (*see* Docket No. 128).
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20 7. On January 13, 2023, Debtor, The Wardlow Survivor's Trust and the Trustee, by and
21 through their counsel of record, attended a settlement conference regarding the AP. A
22 settlement resulted (*see* Docket No. 130 and the Order as Docket No. 131) (hereinafter "AP
23 Settlement").
- 24 8. The AP Settlement reduced the amount of The Wardlow Survivor's Trust's claim in this
25 Bankruptcy Case to and required the Trustee to disburse \$220,000.00 to The Wardlow
26 Survivor's Trust as full and final settlement of their claim. It further required that the Trustee
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1 retain \$50,000 in Trustee's fees held in trust until the dispute regarding the Chapter 13
2 Trustee's claim to collect fees from funds received by the Trustee's office is resolved as well
3 as retain enough to pay 100% of all filed and allowed claims in the Bankruptcy Filing (*see*
4 Docket No. 130 and 131).

- 5
- 6 9. On or about January 18, 2023, the 10th Circuit published an opinion in the case of Adam
7 Goodman v. Daniel Richard Doll regarding Chapter 13 trustee's fees upon dismissal of a pre-
8 confirmation bankruptcy case. In re Doll, 57 F.4th 1129 (10th Cir. January 18, 2023).
- 9 10. On February 7, 2023, the case of Roger Evans v. Kathleen McCallister was argued at the
10 9th Circuit Court of Appeals regarding Chapter 13 trustee's fees upon dismissal of a pre-
11 confirmation bankruptcy case (Appeal No. 22-35216, 9th Cir.). As of today, to the best of
12 The Parties' knowledge, the 9th Circuit has not issued the written ruling in this matter.
- 13 11. On or about February 15, 2023, the 2nd Circuit Court of Appeals heard oral argument in
14 the case of Soussis v. Macco regarding Chapter 13 trustee's fees upon dismissal of a pre-
15 confirmation bankruptcy case (Appeal No. 22-155, 2nd Cir.).
- 16 12. On March 7, 2023, Debtor filed a Notice of Withdrawal of Chapter 13 Plan #1 (*see*
17 Docket No. 133).
- 18 13. On March 7, 2023, Trustee filed a pre-hearing statement relating to the confirmation
19 hearing scheduled for March 9, 2023 (*see* Docket No. 135).
- 20 14. On March 8, 2023, Debtor filed a Motion to Dismiss titled "Donohue's Dismissal of Her
21 Chapter 13 Case and Motion to Return to Donohue all Funds the Chapter 13 Trustee is
22 Holding" in which the Debtor requested dismissal of her Bankruptcy Case and requested that
23 the Trustee turn over to her all funds that the Trustee has, including the Trustee's fee, in this
24 Bankruptcy Case (*see* Docket No. 137) (hereinafter "Dismissal and Turnover Motion").
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1 15. On March 9, 2023, after hearing arguments from both sides, the Court denied
2 confirmation of Debtor's Chapter 13 Plan #1 (*see* Docket No. 144).

3 16. On March 29, 2023, Trustee filed an Opposition to the Dismissal and Turnover Motion
4 (*see* Docket No. 143).

5 17. On April 5, 2023, Debtor filed a Reply to the Trustee's Opposition to the Dismissal and
6 Turnover Motion (*see* Docket No. 145).

7 18. This matter came on for hearing April 12, 2023 at 9:30 a.m., it was continued to May 1,
8 2023 at 9:30 a.m., was continued again to May 10, 2023 at 9:30 a.m. and is currently
9 scheduled for hearing on May 17, 2023 at 9:30 a.m.

10
11 **Stipulation**

12 NOW, THEREFORE, due to the current appellate activity regarding this matter and potential
13 circuit split, The Parties, in an effort to minimize the time and cost of The Parties and in consideration of
14 judicial economy, respectfully request that this Honorable Court enter an Order, pursuant to LR 9014(g),
15 approving this Stipulation as follows:
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17 19. The Parties stipulate the debtor has the absolute right to dismiss her Bankruptcy Case
18 pursuant to 11 U.S.C. §1307(b) & In re Nichols, 10 F.4th 956 (9th Cir. 2021).

19 20. The Parties stipulate that total Trustee compensation for this Bankruptcy Case will be
20 \$15,000.00 and that this will be a confidential agreement.

21 21. The remainder of funds on hand with the Trustee will be remitted to Christopher P.
22 Burke, Esq. on behalf of the Debtor as soon as practicable following entry of the order
23 dismissing this Bankruptcy Case.

24 22. Upon dismissal of this Bankruptcy Case, all funds in the possession of Debtor's counsel
25 related to this matter may be released pursuant to §349(b).
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23. This Stipulation represents the entire agreement by and between The Parties.

24. The Parties will bear their own attorneys' fees and costs.

IT IS SO STIPULATED this 16th day of May, 2023.

By: 
Kathleen A. Leavitt,
CHAPTER 13 BANKRUPTCY TRUSTEE
Dated: 5/16/23

By: _____
Lillian Jo Sondgeroth Donohue
DEBTOR
Dated: _____


DANIELLE N. GUECK-TOWNSEND, ESQ.
Nevada Bar No. 12164
711 South 4th Street, Suite 101
Las Vegas, Nevada 89101
Attorney for the Trustee
Dated: 5/16/23

CHRISTOPHER P. BURKE, ESQ.
Nevada Bar No. 4093
218 S. Maryland Parkway
Las Vegas, Nevada 89101
Attorney for the Debtor
Dated: _____

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DANIELLE N. GUECK-TOWNSEND, ESQ.
Nevada Bar No. 12164
711 South 4th Street, Suite 101
Las Vegas, Nevada 89101
Attorney for the Trustee
Dated: _____

By: Lillian Jo Sondgeroth Donohue
Lillian Jo Sondgeroth Donohue
DEBTOR
Dated: 5-16-2023

Christopher P. Burke
CHRISTOPHER P. BURKE, ESQ.
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218 S. Maryland Parkway
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Attorney for the Debtor
Dated: 5/16/23